IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

Bail Appl..No. 1857 of 2007()

CRIME NO.276/07 OF KARUNAGAPPALLY POLICE STATION

: PETITIONERS/ACCUSED 1 TO 3

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1. SIVARAJAN,
   A.K.BHAVAN, ADINADU SOUTH, ADINADU VILLAGE,
   KATTILKADAVU P.O., KARUNAGAPPALLY.

2. SUJATHA, W/O. SIVARAJAN,
   A.K.BHAVAN, ADINADU SOUTH, ADINADU VILLAGE,
   KATTILKADAVU P.O., KARUNAGAPPALLY.

3. ATHIRA, D/O. SIVARAJAN,
   A.K.BHAVAN, ADINADU SOUTH, ADINADU VILLAGE,
   KATTILKADAVU P.O., KARUNAGAPPALLY.

BY ADV. SRI.A.AHZAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
   THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   KARUNAGAPPALLY POLICE STATION, KARUNAGAPPALLY.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

B.A. No. 1857 OF 2007 B

Dated this the 27th day of March, 2007

O R D E R

Petitioners, who are accused Nos.1 to 3, of which accused Nos.2 and 3 are ladies, seek anticipatory bail on the allegation that they are apprehending arrest and harassment by the Karunagappally police, which has registered a case as Crime No.276/07 for an offence punishable under section 420 read with section 34 IPC.

2. Learned Public Prosecutor opposed the application submitting, inter alia, that the petitioners, who are the joint owners of the property in question, had appointed the defacto complainant as their Power of Attorney holder for sale of the property and the Power of Attorney holder, after entering into an agreement for sale and receiving Rs.7 lakhs, had made available the sale consideration to the petitioners, who however cancelled the Power of Attorney and entered into another transaction with a third party for sale of the property.

3. It is too early to accept the petitioners' contention that the offence alleged against them is not made out.

4. Since accused Nos.2 and 3 are ladies, I am inclined to grant anticipatory bail to them. Accordingly, a direction is issued to the officer-in-charge of the police station concerned to release accused

Nos.2 and 3 on bail for a period of one month in the event of their arrest in connection with the above case on each of them executing a bond for Rs.10,000/- (Rupees ten thousand only) with two solvent sureties each for the like amount to the satisfaction to the said officer and subject to the following conditions:

a. 2nd and 3rd petitioners shall make themselves available for interrogation as and when required by the Investigating Officer.

b. 2nd and 3rd petitioners shall not influence or intimidate the prosecution witnesses nor shall they attempt to tamper with the evidence for the prosecution.

c. 2nd and 3rd petitioners shall not commit any offence while on bail.

d. 2nd and 3rd petitioners shall surrender before the Magistrate concerned and seek regular bail in the meanwhile.

If the 2nd and 3rd petitioners commit breach of any of the above conditions, the bail granted to them shall be liable to be cancelled.

5. In the case of the first petitioner/first accused, there is no reason why he should not surrender before the Investigating Officer for interrogation and and then to have his application for regular bail considered by the Magistrate concerned. Accordingly, the first

accused/first petitioner is directed to surrender before the Investigating Officer on any day between 2.4.2007 and 4.4.2007 for the purpose of interrogation. The first petitioner shall, thereafter, be produced on the same day before the Magistrate having jurisdiction. The Magistrate on being satisfied about the interrogation shall release the first petitioner on bail on appropriate conditions.

In the result, this application is allowed in part granting bail to accused Nos.2 and 3 but rejecting the request of the first accused for bail.

(V. RAMKUMAR, JUDGE)

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